



IRA A. JACKSON
COMMISSIONER

The Commonwealth of Massachusetts

Department of Revenue

Leverett Saltonstall Building

100 Cambridge Street, Boston 02204

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("Corporation") manufactures infusion pumps, controllers, and various accessories designed for the volumetric delivery of fluids into the body. The infusion pumps have numerous applications for controlled infusion, including total parenteral nutrition, enteral alimentation, and inter-arterial infusion. The controllers provide control for gravity fluid alimentation. You inquire whether the retail sales of the following items are exempt from the Massachusetts sales tax:

1. Enteral Delivery Pump;
2. Volumetric Infusion Pumps,
and Microvolumetric Infusion Pump Model
3. Controller and Piggyback Controller;
4. Administration Sets, which
contain a disposable syringe chamber cassette and tubing,
used in conjunction with the infusion pumps;
5. Administration Sets, used with or without
a controller, which contain tubing and a flow-metering knob
designed to provide gravity flow delivery;
6. Filter Sets, used with
the Corporation's instruments and administration sets;
7. Equipment Pole, used to carry infusion
pumps, controllers and intravenous bags.

Retail sales of these items are exempt from the sales tax in two situations: when sold or rented to an individual pursuant to a physician's prescription, and when sold to an entity such as a hospital exempt from tax under Section 501(c)(3) of the Internal Revenue Code.

Massachusetts General Laws, Chapter 64H, Section 2 imposes a five percent sales tax on the retail sale of tangible personal property in Massachusetts. Section 6(1) of Chapter 64H exempts from the sales tax "the rental, sales and repairs of ... enteral and parenteral feedings and feeding devices ... when prescribed by a physician." (emphasis added). "Enteral" is defined as "within the intestine" and "parenteral" is defined as "by some other means than through the gastrointestinal tract or lungs; referring particularly to the introduction of substances ... by intravenous, subcutaneous, intramuscular, or intramedullary injection." Stedman's Medical Dictionary 468, 1031 (W.H.L. Dornette ed. 1982). Each of the Corporation's products listed above is a device specifically designed for enteral or parenteral feedings. Retail sales of these specific items are exempt from Massachusetts sales tax when purchased by an individual pursuant to a physician's prescription.

Also exempt from the sales tax are:

[s]ales to any corporation, foundation, organization or institution, which is exempt from taxation under the provisions of section five hundred and one (c)(3) of the Federal Internal Revenue Code, as amended, and in effect for the applicable period; provided, however, that such sales shall not be exempt unless (1) the tangible personal property which is the subject of such sales is used in the conduct of such religious, charitable, educational or scientific enterprise, (2) such corporation, foundation, organization or institution shall have first obtained a certification from the commissioner, stating that it is entitled to such exemption, and (3) the vendor keeps a record of the sales price of each such separate sale, the name of the purchaser, the date of each such separate sale, and the number of such certificate. G.L. c. 64H, § 6(e).

The sale of the Corporation's products listed above to a hospital exempt from taxation under Section 501(c)(3) of the Internal Revenue Code is also exempt from the sales tax when the requirements of section 6(e) are met.

Very truly yours,

A handwritten signature in dark ink, appearing to read "H. A. Jackson", written in a cursive style.

Commissioner of Revenue

IAJ:JA:afbp

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